

Michael T. Margolis, M.D.

Page 1

IN RE: PELVIC MESH LITIGATION) PHILADELPHIA COUNTY

) COURT OF COMMON
Sharon Carlino and Charles) PLEAS TRIAL DIVISION -
Carlino,) CIVIL
Plaintiffs,)

vs.) JUNE TERM 2013

Ethicon, Inc., et al.,)

 Defendants.) No. 3470

)

DEPOSITION OF MICHAEL T. MARGOLIS, M.D.

SATURDAY, NOVEMBER 21, 2015

SAN JOSE, CALIFORNIA

Reported by: Shelley M. Sailor, CSR No. 10254

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Michael T. Margolis, M.D.

Page 82	Page 84
<p>1 that Ms. Carlino has permanent irreversible dyspareunia</p> <p>2 and pelvic pain. Is that correct?</p> <p>3 A. That is correct.</p> <p>4 Q. And what I want to know is what are all the</p> <p>5 things you base your finding that her pelvic pain is</p> <p>6 permanent and irreversible?</p> <p>7 A. My knowledge, experience, education, training,</p> <p>8 review of 17 years' worth of literature, plus my review</p> <p>9 of records and documents from prior trials and her own</p> <p>10 examination and history.</p> <p>11 Q. Have you made a recommendation for Ms. Carlino</p> <p>12 to participate in physical therapy?</p> <p>13 A. When I talked to her, we discussed her options.</p> <p>14 And just to be accurate, medical therapy, living with</p> <p>15 medical therapy, pain meds, physical therapy is an</p> <p>16 option. It doesn't work but it's an option.</p> <p>17 Q. Is physical therapy encompassed within the</p> <p>18 trial medical therapy in the form of pain meds or</p> <p>19 another surgery?</p> <p>20 A. Physical therapy is encompassed within medical</p> <p>21 therapy, which would also include pain meds.</p> <p>22 Q. And it's your opinion that physical therapy</p> <p>23 will not benefit Ms. Carlino.</p> <p>24 A. Physical therapy will not benefit her, that's</p> <p>25 correct.</p>	<p>1 Q. Dr. Margolis, it's my understanding of your</p> <p>2 opinion that you believe that the sling that remains in</p> <p>3 Ms. Carlino that you drew on Exhibit 7, on the left-hand</p> <p>4 side of her urethra, will cause her to have ongoing</p> <p>5 complications. Is that correct?</p> <p>6 A. Yes. And also some on the right as well. But</p> <p>7 the left, her left, yes.</p> <p>8 Q. Do her treating physicians also hold that</p> <p>9 opinion?</p> <p>10 A. I haven't asked them.</p> <p>11 Q. You have reviewed the depositions of</p> <p>12 Drs. Conner and Blechman, haven't you?</p> <p>13 A. I have.</p> <p>14 Q. And neither one of them expresses the opinion</p> <p>15 that the sling that remains in Ms. Carlino will cause</p> <p>16 her additional complications, do they?</p> <p>17 MR. TRUNK: Objection. I think you're</p> <p>18 misrepresenting what the testimony is. If you want to</p> <p>19 show him, that's fine. Or if you want to make it a</p> <p>20 general statement or however you're phrasing their</p> <p>21 testimony, it speaks for itself.</p> <p>22 BY MR. COMBS:</p> <p>23 Q. You have reviewed their testimony, haven't you?</p> <p>24 A. I have.</p> <p>25 Q. Can you point to anything in their testimony</p>
Page 83	Page 85
<p>1 Q. And what is that opinion based on?</p> <p>2 A. I have treated hundreds of patients who have</p> <p>3 sling and mesh complications who have -- many of whom</p> <p>4 have tried physical therapy, and none of them have had</p> <p>5 any relief from it. I have seen physical therapy used</p> <p>6 by other colleagues around the country for pain from the</p> <p>7 sling, and it doesn't work. The literature shows it</p> <p>8 doesn't work, and it can't work. Physical therapy can't</p> <p>9 fix damaged tissue.</p> <p>10 Q. You say the literature shows it doesn't work.</p> <p>11 What literature are you relying on for that opinion?</p> <p>12 A. Oh, I would have to go back and pull some</p> <p>13 records or some journals to answer that accurately.</p> <p>14 Q. Can you tell us as we sit here today any</p> <p>15 articles that you rely on to support that opinion?</p> <p>16 A. I cannot recite an article.</p> <p>17 Q. Have you reviewed any articles that hold</p> <p>18 contrary opinions?</p> <p>19 A. I have.</p> <p>20 Q. And can you list any of those for us?</p> <p>21 A. No.</p> <p>22 Q. Do you currently refer patients that have sling</p> <p>23 complications, such as erosion and pelvic pain, to</p> <p>24 physical therapies?</p> <p>25 A. On occasion I have as a last-ditch effort.</p>	<p>1 where they think that the mesh remaining in Ms. Carlino</p> <p>2 will cause her any additional complications?</p> <p>3 A. Well, I don't have their testimony, deposition</p> <p>4 testimonies in front of me. I certainly didn't memorize</p> <p>5 them, so I don't know. I would be happy to look at any</p> <p>6 particular references in their testimonies, in their</p> <p>7 deposition testimonies that might suggest what you have</p> <p>8 asked me. But I would also, of course, remind you that</p> <p>9 no one predicted the erosions that she had to begin</p> <p>10 with, because the mesh complications that have occurred</p> <p>11 to Mrs. Carlino happen much like a volcano. Right?</p> <p>12 There's periods of dormancy and the volcanos blow, and</p> <p>13 then there's a period of dormancy and volcanos blow.</p> <p>14 And neither Dr. Blechman or Dr. Conner predicted that</p> <p>15 she would have the volcanic eruptions, if you will, from</p> <p>16 the sling that she had previously. So they didn't</p> <p>17 predict what was going to happen to her and yet it</p> <p>18 happened. And I'm certain that that Krakatoa will blow</p> <p>19 again.</p> <p>20 Q. And when you say that, it's your opinion that,</p> <p>21 to a certainty, that Ms. Carlino will have another</p> <p>22 erosion or exposure?</p> <p>23 A. I am most certain she will.</p> <p>24 Q. And what do you base that on?</p> <p>25 A. My knowledge, experience, education, training.</p>

22 (Pages 82 to 85)

Michael T. Margolis, M.D.

Page 86	Page 88
<p>1 I mean, more than half of the mesh still exists in her. 2 Right? Only approximately, what, three centimeters or 3 so of the mesh was removed. So the giant majority of 4 the mesh is still in her. And if the sling is implanted 5 in -- in August of 2005 and lays dormant for two years, 6 then erodes, then it's fine for three years, and then it 7 is exposed again three years later, this tells us the 8 natural history of slings. They lay dormant and then 9 like volcanos, they erupt. This is a very, very typical 10 presentation for a sling complication. She will have 11 more eruptions. 12 Q. And is there any literature that you're relying 13 on for your opinion that Ms. Carlino will have 14 additional erosions in the future? 15 A. Well, there's -- first off, my experience, 16 knowledge, education, and training, my own experience 17 over 17 years removing over 300 sling systems is a major 18 part of my opinion. Second part of my opinion is 19 Mrs. Carlino's history. Something unique about this 20 mesh in her has caused it to erode well after surgery. 21 It's happened more than once. It's almost certainly 22 going to happen again. 23 And the literature, I don't have any specific 24 literature that I can quote to you, but this is well 25 described. Well described in the literature.</p>	<p>1 them, and I want to know what your support is for those 2 risks. So let's just start with number 1. What are you 3 going to tell the jury at this trial that is your 4 support for that risk? 5 A. Mrs. Carlino's history of chronic pain as 6 outlined in the records and the fact that the materials 7 reviewed in this proceeding, Dr. Rosenzweig, 8 Dr. Iakovlev, Dr. Klinge, and the Ethicon documents 9 described in the two paragraphs above, corroborate the 10 chronic current developing pain are not uncommon. 11 Q. Will you be testifying to the jury -- strike 12 that. 13 Are you going to place a rate for chronic 14 debilitating pain to the jury in this case? 15 A. A right? I'm sorry, what? 16 Q. A rate. Are you going to place a rate on that? 17 You say it's capable of causing chronic permanent 18 debilitating pain. So in this trial are you going to 19 tell the jury a rate of patients that have chronic 20 permanent debilitating pain? 21 A. Well, I believe I'm testifying this is a case 22 specific to Ms. Carlino, so my testimony, as I 23 understand it, I'll answer whatever questions I'm asked, 24 but I believe I'll be asked questions specific to 25 Ms. Carlino. And so if you ask what is the rate, I</p>
Page 87	Page 89
<p>1 Q. Is there any literature that you can tell us 2 about that would demonstrate that a person who has been 3 erosion-free for a period of five years is more likely 4 than not to have an additional erosion? 5 A. Well, again, I came here in preparation for a 6 case specific, not general, so I don't have -- I didn't 7 prep for a general on this deposition. There was a 8 study by Ross, if I'm not mistaken. It was the last 9 couple years. Where she described 80 percent of women 10 with slings having palpable mesh just underneath the 11 mucosa of the vagina a year after implantation. I 12 believe those patients were on average about 51 years of 13 age. And her conclusion in this study was that she was 14 gravely concerned or concerned that there would be 15 future erosions in these patients, in these 80 percent 16 of women with the sling. So that's one study that comes 17 to mind. But I know there are others. I just happen to 18 recall that one in particular. 19 Q. Any other literature that you can think of to 20 support your opinion that Ms. Carlino is more likely 21 than not to have another erosion? 22 A. None that comes to mind. None that I can 23 recite at this time. 24 Q. Dr. Margolis, in your report at page 3 and 4, 25 you've got a list of 19 risks. I want to go through</p>	<p>1 would say it is more likely than not in Ms. Carlino to 2 be the case. So I hope that answers your question. 3 Q. You have never talked to Dr. Blechman, have 4 you? 5 A. I have not. 6 Q. You don't know what risks he was aware of, do 7 you? 8 A. Other than what he stated in his, obviously in 9 his medical records and in his deposition, I have never 10 spoken with him. 11 Q. And in his deposition, he testified that he was 12 aware of the risk of erosion at the time he implemented 13 the TVT, didn't he? 14 A. I do seem to recall that. I do believe to 15 recall it. 16 Q. And do you have any information at all that 17 Dr. Blechman was not aware of the risk of erosion? 18 A. No. 19 Q. You state in your report that the risk that 20 pertained to Ms. Carlino's informed consent was tension 21 on the mesh could collapse the pores. 22 A. Correct. 23 Q. What are you basing that opinion on? 24 A. Well, when mesh is implanted, the pores are, in 25 their native form, more open than after a mesh has been</p>

Michael T. Margolis, M.D.

Page 146

REPORTER'S CERTIFICATE

I, SHELLEY M. SAILOR, duly authorized to administer oaths pursuant to Section 2093(b) of the California Code of Civil Procedure, do hereby certify that the witness, MICHAEL T. MARGOLIS, M.D., in the foregoing deposition was by me duly sworn to testify the truth in the within-entitled cause; that deposition was taken at the time and place therein named; that testimony was reported by me and thereafter transcribed under my direction; that the foregoing is a complete and accurate record of said testimony; and that the witness was given an opportunity to read and correct said deposition and to subscribe the same. Should the signature of the witness not be affixed, the witness shall not have availed himself of the opportunity to sign or the signature has been waived. I further certify that I am not of counsel nor attorney for any of the parties in the foregoing deposition and caption named nor in any way interested in the outcome of the cause named in said caption.

Reading and Signing was REQUESTED.

DATED: NOVEMBER 25, 2015

SHELLEY M. SAILOR, CSR 10254

38 (Page 146)